



OHIO DAIRY PRODUCERS
219 South Oak Street P.O. Box 189
Ottawa, Ohio 45875-0189

419.523.6294 phone
419.523.3192 fax
demland.2@osu.edu

"Supporting Ohio's Dairy Production Industry; Optimizing profitability and productivity; Addressing issues that affect dairy producers."

EXHIBIT NO. 43

Metropolitan

October 22, 2004

Ms. Dana Coale
Deputy Administrator
USDA/AMS/Dairy Programs
Stop 0225, Room 2968-S
1400 Independence Avenue, SW
Washington DC 20250-0225

Dear Deputy Administrator:

Ohio Dairy Producers wishes to request that a Federal Order Hearing be called to address a major issue of concern for the dairy producers in Federal Order 33 – Mideast Marketing Area.

The Ohio Dairy Producers organization is a group of non-partisan dairy producers from every region of the state who; regardless of size, marketing preference, breed, or production strategy share a genuine concern for the future of Ohio's dairy production industry. ODP's mission is to support Ohio's dairy production industry; increasing productivity and optimizing profitability by addressing issues that affect dairy producers.

ODP members include individual producer members as well as representatives from organizations such as Dairy Farmers of America Mideast Region, COBA/Select Sire, Inc., Ohio DHI, Continental Milk Products, Independent Milk Producers Association, Ohio Jersey Association, CRI/Genex, Inc., and the Ohio Grange.

Our membership has become increasingly concerned over the negative impact "depooling" has had on Producer Price Differentials. We are also concerned that such actions will continue to enhance price volatility and decrease producer confidence in the FO 33 market structure. Current Order language provides handlers an almost unfettered option to receive the rewards of a balanced market without sharing in its full cost. This cost is then passed on to producers in the form of lower PPDs who remain within the market system.

In FO 33, according to statistics provided at our request from the Mideast Market Administrator, "depooling" reduced the Producer Price Differential received by producers by \$1.66 cwt in April and \$.74 in May 2004. The Ohio State University Extension State Specialist for Dairy Markets and Policy, Cameron Thraen has estimated that 1.87 billion pounds were taken out of FO 33 costing producers on the pool \$7.4 million in 2003, and 1.3 billion pounds in April and May 2004, at an estimated cost of \$21.3 million dollars to pooled producers.

Ohio Dairy Producers agrees with DFA's statement from their proposal letter for addressing the "depooling" issue in FO 32, "...additional Order language is needed to insure that those producers who

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wish to regularly supply the market and share in the blend price are not damaged by those who choose to do so only occasionally.”

Currently, Orders 30 & 32 are both considering proposals attempting to limit market “depooling”. Their correction may lead to larger problems for Order 33 as it will become the balancing pool for others if nothing is done to change the current Order 33 language as well. Distant milk will flow into the Mideast order in an ever-growing volume reducing the average PPD when the Class III price is below the Uniform price. During periods of volatility, and it appears that this is becoming more likely, this large volume of milk will just as quickly be “depooled” imposing yet another price penalty on producers.

Our proposals will limit the ability of “depooled” milk to immediately regain access back into the pool. This will restore a higher level of equity and fairness among producers and handlers. This proposal is very similar to the “Producer for Other Markets” concept.

We therefore propose a change in Federal Order 33 language to correct this problem. Following are two proposed alternatives to the current language.

Proposal No. 1

This proposal to establish a dairy farmer for other markets provision would require that only 115% of a prior month's milk could be pooled in a subsequent month and be considered pool milk.

1. Amend Sec. 1033.13 by adding a new paragraph (e) to read as follows:

Sec. 1033.13 Producer Milk.

* * * * *

(e) The quantity of milk reported by a handler pursuant to Sec. 1033.30(a)(1) and/or Sec. 1033.30(c)(1) may not exceed 115 percent of the producer milk receipts pooled by the handler during the prior month. Milk diverted to nonpool plants reported in excess of this limit shall be removed from the pool by the market administrator. Milk received at pool plants, other than pool distributing plants, shall be classified pursuant to Sec. 1000.44(a)(3)(v) and Sec. 1000.44(b)(3)(v). The handler must designate, by producer pick-up, which milk is to be removed from the pool. If the handler fails to provide this information, the market administrator will make the determination. The following provisions apply:

(1) Milk shipped to and physically received at pool distributing plants shall not be subject to the 115 percent limitation;

(2) Producer milk qualified pursuant to Sec. -----13 of any other Federal Order and continuously pooled in any Federal Order for the previous six months shall not be included in the computation of the 115 percent limitation;

(3) The market administrator may waive the 115 percent limitation utilizing;

(i) For a new handler on the order, subject to the provisions of Sec. 1033.13(e)(3), or

(ii) For an existing handler with significantly changed milk supply conditions due to unusual circumstances;

The Ohio Dairy Producers is a group of non-partisan dairy producers from every geographic region of the state who; regardless of size, marketing preference, breed, or production strategy; share a genuine concern for the future of Ohio's dairy industry.

(4) The market administrator may increase or decrease the applicable limitation for a month consistent with the procedures in Sec. 1033.7(g); and

(5) A bloc of milk may be considered ineligible for pooling if the market administrator determines that handlers altered the reporting of such milk for the purpose of evading the provisions of this paragraph.

Or,

Proposal No. 2

This proposal to establish a dairy farmer for other markets provision would require a year round commitment in order for milk to be pooled.

1. Amend Sec. 1033.12 by adding a new paragraph (b) (5) to read as follows:

Sec. 1033.12 Producer.

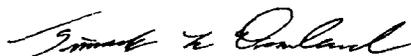
* * * * *

(b) * * *

(5) For any month, any dairy farmer whose milk is received at a pool plant or by a cooperative association handler described in Sec. 1000.9(c) if the pool plant operator or the cooperative association caused milk from the same farm to be delivered to any plant as other than producer milk, as defined under the order in this part or any other Federal milk order, during the same month or any of the preceding 11 months, unless the equivalent of at least ten days' milk production has been physically received otherwise as producer milk at a pool distributing plant during the month.

We appreciate very much the opportunity to direct our concerns to you and your consideration in this matter. Please feel free to contact me any questions pertaining to this request to me.

Sincerely;



Tim Demland
Executive Director, Ohio Dairy Producers



OHIO FARMERS UNION

Serving Ohio's Family Farmers

www.ohfarmersunion.org

Legislative Hotline: 1-866-989-3671

October 25, 2004

Ms. Dana Coale
Deputy Administrator
USDA/AMS Dairy Programs
Stop 0225, Room 2968-S
1400 Independence Avenue, SW
Washington DC 20250-0225

Re: Request for an Emergency Hearing on Repooling in FO33

Dear Deputy Administrator:

On behalf of our dairy farmer members, The Ohio Farmers Union requests that a Federal Order Hearing be called to address an issue that has seriously and adversely impacted dairy producers throughout Federal Order 33.

Due to the extreme volatility of milk prices during June – October, 2003 and April through May of 2004, we have become increasingly concerned over the negative impact of “depooling” and unlimited ‘repooling’ on the producer Price Differential in Federal Order 33. We are also concerned that such activity, if continued could increase price volatility and further degrade producer confidence in the fundamental principle of equity underpinning the Federal Milk Marketing System.

In FO 33, according to statistics provided at our request by the Mideast Market Administrator, “depooling” reduced producer prices by \$1.66 / cwt in April and \$.74 /cwt in May 2004. The Ohio State University Extension State Specialist for Dairy Markets and Policy, Cameron Thraen has estimated that 1.87 billion pounds were taken out of FO 33, costing producers on the pool \$7.4 million in 2003. In 2004, the same dynamic was repeated to an even greater degree, involving 1.3 billion pounds during April and May, costing producers an estimated \$21.3 million. Dr. Thraen also reports that beyond this immediate effect on the average mailbox prices for pooled producers, depooling has caused significant harm to producers using forward pricing and futures contracts.

As you know Federal Orders 30 and 32 are both currently considering proposals to limit market “repooling” after a depooling decision has been made. These corrections may lead to even greater problems for FO 33, as it may become the balancing pool for those other pools. Barring changes in the current FO 33 language, distant milk could flow into FO 33 in an ever-growing volume, reducing the average PPD whenever the class III price is below the uniform price. During the increasingly frequent periods of price volatility, large volumes of milk could just as quickly be “depoiled,” imposing yet another penalty on FO 33 producers. Current Order Language provides for an almost unfettered option

Administrative Office

1011 N. Defiance Street P.O. Box 363
Ottawa, Ohio 45875
Phone: 419-523-5300 Fax: 419-523-5913
1-800-321-3671

Governmental Affairs & Public Relations

175 S. Third Street, Suite 1020
Columbus, Ohio 43215
Phone: 614-221-9520 Fax: 614-221-7083
1-888-610-4400

to receive the rewards of a balanced market without sharing in its full costs. These costs are then passed on to the producers in the form of lower PPDs for those who remain in the market.

Our proposal will limit the ability of "depooled" milk to immediately regain access back into the pool. We feel it will restore a higher level of equity among producers in this market and among the various Federal Orders (presuming language changes may be approved in Orders 30 & 32). It could also add some stability for those producers who take the initiative to use futures markets and forward contracting to manage their risk.

We therefore propose to change the Federal Order language to correct this problem. Our proposals are similar to the "Producer for other Markets" concept. The following are our proposed changes:

Proposal No. 1

This proposal would serve to establish a "Dairy Farmer for other Markets" provision, requiring that a maximum of 115% of a prior month's milk could be pooled in any subsequent month and be considered pooled milk.

1. Amend Section 1033.13 by adding a new paragraph (e) to read as follows:

Section 1033.13 Producer Milk

(e) The quantity of milk reported by a handler pursuant to Sec. 1033.30 (a) (1) and / or Sec. 1033.30 (c) (1) may not exceed 115 percent of the producer milk receipts pooled by the handler during the prior month. Milk diverted to nonpool plants reported in excess of this limit shall be removed from the pool by the market administrator. Milk received at pool plants, other than pool distributing plants, shall be classified pursuant to Sec. 1000.44 (a) (3) (v) and Sec. 1000.44 (b) (3) (v) . The handler must designate, by producer pick-up, which milk is to be removed from the pool. If the handler fails to provide this information, the Market Administrator will make the determination. The following provision will apply:

(1) Milk shipped to and physically received at pool distributing plants shall not be subject to the 115 percent limitation;

(2) Produced milk qualified pursuant to Sec. ——.13 of any other Federal Order and continuously pooled in any Federal Order for the previous six months shall not be included in the computation of the 115 percent limitation;

(3) The market administrator may waive the 115 percent limitation utilizing;

(i) For a new handler on the order, subject to the provisions of Sec. 1033.13 (e) (3), or

(ii) For an existing handler with significantly changed milk supply conditions due to unusual circumstances;

Ms. Dana Coale
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(4) The market administrator may increase or decrease the applicable limitation for a month consistent with the procedures in Sec. 1033.7 (g); and

(5) A block of milk may be considered ineligible for pooling if the market administrator determines that handlers altered the reporting of such milk for the purpose of evading the provisions of this paragraph.

Proposal No. 2

This proposal to establish a dairy farmer for other markets provision would require a year round commitment in order for milk to be pooled.

1. Amend Sec. 1033.12 by adding a new paragraph (b) (5) to read as follows:

Section 1033.12 Producer

(b) * * *

(5) For any month, any dairy farmer whose milk is received at a pool plant or by a cooperative association handler described in Sec. 1000.9 (c) if the pool plant operator or the cooperative association caused milk from the same farm to be delivered to any plant as other than producer milk, as defined in the order in this part or any other Federal Milk Order, during the same month or any of the preceding 11 months, unless the equivalent of at least ten day's milk production has been physically received otherwise as producer milk at a distributing pool plant during the month.

We are very appreciative of the opportunity to express our concerns in this matter. We hope that you will give this request the most serious and prompt consideration. Please feel free to contact me at any time for any necessary clarification.

Contact information:

Ohio Farmers Union
1011 N. Defiance St.
P. O. Box 363
Ottawa, Ohio 45875
Attn: Joe Logan
Phone: (800) 321-3671
Cell: (419) 325-8061

Sincerely,



Joe Logan, President
Ohio Farmers Union